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E. James (Jim) Ferland
President & Chief Executive Officer

April 15, 2013

The Honorable Kevin Brady
Chair
Energy Tax Reform Working Group
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Mike Thompson
Chair
Energy Tax Reform Working Group
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Brady and Congressman Thompson,

The Babcock & Wilcox Company (B&W) appreciates the opportunity to offer input regarding how to improve the tax code and enhance incentives for U.S. energy companies. We applaud the efforts of the House Ways & Means Committee and the Energy Tax Reform Working Group to understand the tax issues of concern to our industry.

Our message to the Committee and the Working Group is that U.S. based manufacturing should have a level playing field in the global marketplace. In order to level the playing field, we would recommend:

- Achieve a meaningful reduction of the Corporate Income Tax Rate to 25% in combination with a continuance of the Domestic Productions Activities Section 199 Deduction
- Modify and make permanent the Research & Development (R&D) Tax Credit
- Eliminate impediments in our Tax code affecting the ability of U.S. companies to efficiently deploy our resources in foreign markets

Currently, the United States has the highest marginal corporate income tax rate among Organization for Economic Cooperation and Development countries, effectively putting domestic manufacturers at a significant global competitive disadvantage. At 35%, the U.S. is out of step with other major industrialized nations that have been cutting their corporate tax rates over the past two decades. A significant reduction in the corporate tax rate coupled with a continuation of domestic manufacturing and research incentives has the potential to inspire expansion and job growth in key sectors like ours and reverse recent trends that have seen research and manufacturing employment leave the United States.

B&W understands that in order to achieve a lower marginal tax rate, certain base broadening measures must be considered. However, elimination of current incentives within our Tax code to encourage domestic manufacturing should not be used disproportionately as the “pay fors”. A meaningful tax rate reduction should be considered in the context of comprehensive tax reform that doesn’t unduly impact domestic manufacturing.

B&W is a capital intensive company that also employs large numbers of engineers. B&W views as important those provisions enacted with the intent of encouraging domestic manufacturing and innovation, including the R&D Tax Credit, Section 199 Deduction and Accelerated Depreciation methods.

The R&D Tax Credit is a valuable source of support to businesses like ours with an ongoing commitment to conduct research and development. Many of the provision's difficulties have resulted from its perennially temporary status. Making the credit permanent and restructuring it so that companies can count on its existence would go a long way to fostering its goal of spurring domestic research. Additionally, revising the credit so that companies with ongoing and robust research activities that are not necessarily significantly increasing R&D expenditures can still benefit from it would improve the functioning of the credit, and make it less volatile and easier to factor into incremental investment decisions.

The Section 199 deduction has provided a much needed encouragement to domestic manufacturing. The 199 deduction has become an important component to incentivize B&W to maintain its manufacturing operations in the United States. Given the Obama Administration's emphasis on keeping manufacturing jobs in the U.S., continuation of Section 199 should be considered in connection with an overall rate cut for businesses.

It almost goes without saying that depreciation methods and lives have great significance to capital intensive industries like manufacturing. Accelerated depreciation can often tip the scales in favor of making incremental investments. However, the most recent "Bonus" depreciation provisions enacted by Congress had the counter-intuitive effect of actually increasing some manufacturer's taxes due to its unfavorable impact on long term contract income and the reduction of 199 benefits. Any future accelerated depreciation provision should take this unusual impact into consideration.

Any effort to level the playing field with respect to our tax code must take into account how international operations are taxed. We should design our international tax system in a way that does not unduly burden U.S. manufacturing companies trying to compete in foreign markets. Depending on the specific design and how base erosion provisions are structured, a Territorial System generally appears to support U.S. competitiveness in that B&W would be obliged to pay the same level of tax as our competitors when doing business in a foreign location. Moreover, U.S. businesses should be able to freely deploy resources or business income from the conduct of an active foreign trade or business among affiliated entities without additional tax cost.

We hope you find this information helpful as you work through these important issues. If you have any additional questions, please feel free to contact myself, and Paul Cappiello, Vice President of Tax at pvcappiello@babcock.com.

Sincerely,

E. James Ferland
President & CEO
The Babcock & Wilcox Company